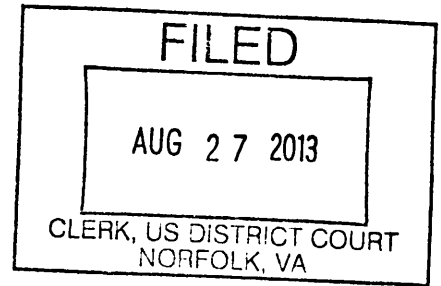


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



JAMES H. DILLINGHAM, III (#1410474),

Petitioner,

v.

ACTION NO. 2:13CV200

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254. Petitioner paid the \$5.00 filing fee. The Petition was amended (ECF No. 10) to include additional exhibits (ECF No. 4, pp. 2-5) and memoranda intended to amplify the arguments set forth in the Petition. (ECF Nos. 8, 9). The Petition alleges violations of federal rights pertaining to Petitioner's convictions on February 24, 2010, in the Circuit Court of Newport News, Virginia for rape, forcible sodomy, and abduction, for which he is currently serving an active term of fifteen years.

The matter was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation filed July 25, 2013 recommends dismissal of the petition.

Each party was advised of the right to file written objections to the Report and Recommendation. On August 5, 2013, the Court received Petitioner's Objections to the Report and

Recommendation. Respondent has filed no objection, nor any response to Petitioner's objections. The time for responding has now expired.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve all findings and recommendations set forth in the Report and Recommendation filed July 25, 2013. It is, therefore, ORDERED that Respondent's Motion to Dismiss (ECF 12) is GRANTED, and that Petitioner's petition (ECF 1) is DENIED and DISMISSED with prejudice.

Petitioner is hereby notified that he may appeal from the Judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

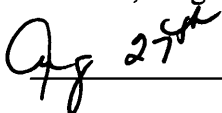
Petitioner has failed to demonstrate any substantial showing of the denial of a constitutional right. Therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and counsel of record for Respondent.



ARENDA L. WRIGHT ALLEN
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

 27th, 2013